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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Patent No. 7,077,979

Issued: July 18, 2006

Serial No.: 10/683,899

Filed: October 10, 2003

Inventors: Anthony K. Cheetham et al.

Docket: G&C 30794.349-US-01

Title: RED PHOSPHORS FOR SOLID STATE LIGHTING

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UC 2003-541-1

OFFICE OF PETITIONS

COMMUNICATION UNDER 37 C.F.R. §1.28(c)
TO CORRECT AN ERROR IN SMALL ENTITY STATUS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Assignee, The Regents of the University of California, of the above-identified patent submitted a "Notification Of Change In Small Entity Status Pursuant to 37 C.F.R. §1.27(g)(2)," on January 13, 2010, which indicated that the above-identified patent was no longer entitled to small entity status.

On January 19, 2010, Assignee's representative attempted to pay the patent maintenance fee due at 3.5 years as large entity, but the small entity status had not been changed in the records of the U.S. Patent and Trademark Office, and thus the fee could not be paid as large entity. Consequently, the fee was paid under small entity status when paid on January 19, 2010, which was in error, although without deceptive intent.

Consequently, Assignee's attorney respectfully requests that the error be excused in view of the following compliance with the separate submission and itemization requirements of 37 C.F.R. §§1.28(c)(1) and (c)(2), and the deficiency payment requirement of 37 C.F.R. §1.28(c)(2). The deficiency amount owed under 37 C.F.R. §1.28(c) has been calculated using the date on which the deficiency was paid in full.

In accordance with 37 C.F.R. §1.28(c)(2), which requires that for each fee that was erroneously paid as a small entity, the deficiencies owed must be paid, and the payment of the deficiencies must be itemized. The deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the

date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment.

37 CFR §1.28(c)(2)(ii) requires the following itemizations: (A) the particular fee involved (e.g., basic filing fee, extension of time fee); (B) the small entity fee amount actually paid and when (for example, distinguishing between two one month extension of time fees erroneously paid on two different dates); (C) the actual deficiency owed for each fee previously paid in error; and (D) the total deficiency owed. These itemizations are set forth below:

1. (A) Patent Maintenance Fee – Due at 3.5 Years; (B) the amount of \$490.00 was paid on January 19, 2010; (C) the actual deficiency owed for the fee paid in error is \$490.00, i.e., the Patent Maintenance Fee - Due at 3.5 Years for a large entity is \$980.00, minus \$490.00 previously paid.
2. (D) The total deficiency owed (i.e., the sum of individual deficiencies) is \$490.00.

Consequently, please charge the total deficiency owed of \$490.00 to Deposit Account No. 50-0494. Any requisite additional fees may be charged to Deposit Account No. 50-0494.

Should the Office believe matters still remain that can be resolved in a telephone interview, the Office is urged to call Assignee's undersigned attorney.

Respectfully submitted,

GATES & COOPER LLP
Attorneys for Assignee

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Date: February 2, 2010

GHG/

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